

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

GRACE REQUIRES UNDERSTANDING, INC.,

Plaintiff,

v.

CV 10-528 BB/CG

MIKKI ROGERS, Director of the Developmental Disabilities Services Division of the New Mexico Department of Health, in her official capacity; ALFREDO VIGIL, Secretary of the New Mexico Department of Health, in his official capacity; KATHRYN FALLS, Secretary of the New Mexico Human Services Department, in her official Capacity,

Defendants.

ORDER GRANTING EXTENSION OF DISCOVERY DEADLINE

This matter is before the Court on Plaintiff's *Motion to Extend Case Management Deadlines*, (Doc. 48), and Defendant's *Response to Plaintiff's Motion to Extend Case Management Deadlines*, (Doc. 54). The Court, having reviewed the parties' submissions, the relevant law, having heard from the parties at a hearing on January 19, 2011, and otherwise being fully advised in the premises, **FINDS** the motion to be well-taken and will be **GRANTED IN PART AND DENIED IN PART**.

Plaintiff Grace Requires Understanding filed the instant lawsuit in May of 2010 and on September 7, 2010, this Court entered a scheduling order laying out the relevant deadlines for conducting discovery. (Doc. 21). The case was assigned to a standard 120 day discovery track and the deadline for completing discovery was January 5, 2011. (*Id.*

at 1). Plaintiff's counsel has requested a six month extension of the discovery deadline because she states that she is still attempting to track down information from several sources which she believes necessary to sustain Plaintiff's suit. (Doc. 48 at 1-5; Doc. 57 at 1-14). Counsel has been pursuing documentation from the Center for Medicare and Medicaid Services ('CMS') since September of 2010 (Doc. 48 at 1-2; Doc. 57 at 3). Plaintiff's counsel initially sent a FOIA request to CMS in September of 2010, and later sent a subpoena *duces tecum* to CMS in November of 2010. (Doc. 48 at 1-2; Doc. 57 at 3-4). Plaintiff has sent out only one set of written interrogatories and requests for production and has held no depositions in this case so far. (Doc. 48 at 2; Doc. 57 at 3). Plaintiff's counsel lists a voluminous amount of discovery yet to be completed. She is still seeking hundreds of pages of documentation from CMS and she seeks to conduct at least four depositions. (Doc. 48 at 3-5; Doc. 57 at 13-14). The Defendants oppose Plaintiff's Motion, stating that the delays in receipt of discovery materials are largely of her own making. (See, e.g., Doc. 54 at 2 ("Plaintiff could have easily served CMS with a subpoena at the outset, instead of a FOIA request, and thereby would have been able to assert reasonable time constraints on a reply that could have easily fit within the Court's Scheduling Order. Instead, Plaintiff elected to go the FOIA route, and delayed issuing a subpoena, thereby causing a delay in discovery that is entirely Plaintiff's own fault.")).

This Court has been concerned with Plaintiff's counsel's apparent disregard for the Court's Orders in this case and her inability to conform with those Orders. Plaintiff's counsel has consistently failed to follow the Federal Rules of Civil Procedure and the Local Rules of Civil Procedure for the District of New Mexico in both filing motions and responding to them. This Court has been forced to ask Counsel to try and conform to those rules on

multiple occasions. (See, e.g., Doc. 35; Doc. 58). Most recently, Plaintiff's counsel filed two motions to amend the complaint, and at hearing on December 9, 2010, District Judge Black afforded Plaintiff ten days in which to file an amended complaint. (Doc. 49). Plaintiff ignored the Court's order and has neither filed an amended complaint, nor has she filed any notice with the Court explaining this omission. Notwithstanding Plaintiff's counsel's disregard for this Court's orders, this Court is inclined to allow a single sixty-day extension of the discovery deadline so that Plaintiff may complete discovery. However, no further extensions of the discovery deadlines will be allowed. Furthermore, the Court once again instructs Plaintiff's counsel to review the Federal Rules of Civil Procedure and the Local Rules of Civil Procedure for the District of New Mexico and to follow them rigorously in all future filings.

IT IS THEREFORE ORDERED that Plaintiff's *Motion to Extend Case Management Deadlines*, (Doc. 48) be **GRANTED IN PART AND DENIED IN PART**. The Court will extend the discovery deadline by sixty days from the entry of this order. Discovery must therefore be completed by March 20, 2011. No further extensions will be allowed.

IT IS FURTHER ORDERED that Plaintiff's counsel acquaint herself with the Federal Rules of Civil Procedure and the Local Rules of Civil Procedure for the District of New Mexico and that she conform to those rules in all future filings.



CARMEN E. GARZA
UNITED STATES MAGISTRATE JUDGE